

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



August 29, 1983

ALL-COUNTY LETTER NO. 83-91

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: WOOD v. WOODS

REFERENCE:

The purpose of this letter is to inform you of the current status of the case of Wood v. Woods. In this case, plaintiffs challenged former Manual of Policies and Procedure Section 43-105.5 which provided that the spouse's community property interest in the income of a nonadoptive stepparent was to be considered unconditionally available to the spouse for the support of the stepchildren living in the home. The trial court ruled in favor of the Department and plaintiffs appealed.

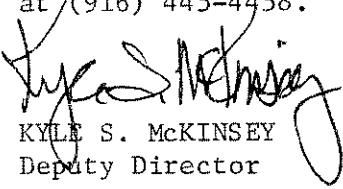
The Court of Appeal reversed the decision of the trial court and upheld plaintiff's challenge to the regulation. In order to assume the availability of the income, the law must create a duty on the part of a stepparent to support nonadopted stepchildren. The Court of Appeal ruled that Civil Code Section 5127.6, on which the Department relied, did not create such a duty and, therefore, the regulation was invalid.

The Omnibus Budget Reconciliation Act of 1981, mandated the inclusion of stepparent income in determining eligibility for AFDC benefits regardless of any state support obligation. This rendered the issue presented in the Wood case moot on a prospective basis.

However, plaintiffs sought, and the Court of Appeal ruled they were entitled to, retroactive benefits for the period from January 1, 1980 to October 1, 1981. The class entitled to retroactive benefits consists of all persons whose AFDC benefits were reduced, terminated, or denied during the period from January 1, 1980 to October 1, 1981 because of the Department's stepparent regulations which required the assumption that the community property interest of a parent in a stepparent's income was unconditionally available to meet the needs of the stepchildren. The class does not include persons who were in an FBU of which the stepparent was also a member.

The Court of Appeal remanded the case to the Superior Court for an order consistent with its decision. We anticipate that the order will be issued in the near future. Instructions for case review and payment of retroactive benefits will be issued at that time. It is recommended that you retain case record materials necessary to compute the retroactive benefits to which members of the class may be entitled.

If you have any questions, please contact your AFDC Management Consultant at (916) 445-4458.



KYLE S. McKINSEY
Deputy Director

cc: CWDA